

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

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|--------------------------------|---|--------------------------|
| WILLIE MCNAIR, |) | |
| |) | |
| Plaintiff/Counter-Defendant, |) | |
| |) | |
| v. |) | Case No. 2:06-cv-695-WKW |
| |) | |
| RICHARD ALLEN, et al., |) | |
| |) | |
| Defendants/Counter-Plaintiffs. |) | |
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| |) | |
| JAMES CALLAHAN, |) | |
| |) | |
| Plaintiff/Counter-Defendant, |) | |
| |) | |
| v. |) | Case No. 2:06-cv-919-WKW |
| |) | |
| RICHARD ALLEN, et al., |) | |
| |) | |
| Defendants/Counter-Plaintiffs. |) | |

ORDER

Before the court is the defendants' Objection (Doc. # 88) to the Magistrate Judge's August 23, 2007 order (Doc. # 86) denying the defendants' motion to compel (Doc. # 78). The issue before the Magistrate Judge was whether the defendants can compel the plaintiffs to identify how they contend the lethal injection procedures must be fixed. The Magistrate Judge ruled that the requested information is irrelevant and that "[u]nless and until liability has been established, the issue of an appropriate remedy is not before the court." (Doc. # 86, at 2-3.) The Magistrate Judge further determined that "it is the State of Alabama's responsibility in the first instance to develop and propose a remedy for deficiencies which the court may find." (*Id.* at 4.)

The defendants filed the instant objection asserting that the discovery is reasonably calculated to lead to the discovery of admissible evidence. The defendants have reiterated the same arguments they made to the Magistrate Judge. Having considered the Magistrate Judge's order and the parties' briefing on the issue, the court concludes that the Objection (Doc. # 88) is **OVERRULED** because the order is neither clearly erroneous nor contrary to law. *See* Fed. R. Civ. P. 72(a); 28 U.S.C. § 636(b)(1)(A).

It is so ORDERED.

DONE this 17th day of September, 2007.

/s/ W. Keith Watkins
UNITED STATES DISTRICT JUDGE